

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES EDWARD SCOTT, III,

Plaintiff,

v.

QUIGLEY,

Defendant.

Case No. 3:23-cv-00270-ART-CLB

ORDER DENYING PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION (ECF NO. 4)

Pro se Plaintiff James Edward Scott, III, an inmate in the Northern Nevada Correctional Center, brings this action under 42 U.S.C. § 1983 against Defendant Dr. Quigley, alleging Quigley demonstrated deliberate indifference to Scott's medical needs by denying him access to ice, which he requires to treat his end-stage kidney failure. Before the Court are Mr. Scott's motion to enjoin Dr. Quigley from further denial of his ice prescription, (ECF No. 4), and Interested Party Nevada Department of Correction's motion to file under seal an exhibit related to Mr. Scott's motion (ECF No. 11). For the reasons explained below, the Court denies Mr. Scott's motion and grants NDOC's motion for leave to file under seal.

I. BACKGROUND

Mr. Scott suffers from end-stage kidney failure. (ECF No. 8 at 4, 6.) People with kidney failure need to reduce water intake, and doctors often prescribe ice as a method to help them achieve that goal.

In July of 2022, Mr. Scott's nephrologist (kidney doctor), Dr. Quigley, wrote Mr. Scott an order for one bag of ice daily to help reduce Mr. Scott's fluid intake. (*Id.* at 4; ECF No 12.) The order was set to expire in November 2023, but at the end of September 2022, Dr. Quigley discontinued the order and instead prescribed ice only during "the summer months" (June through September). (*Id.*

1 at 4-5.)

2 After Mr. Scott's ice prescription was discontinued, he began experiencing
3 symptoms of excess fluid intake. (*Id.* at 6-7.) Mr. Scott informed Dr. Quigley of
4 his symptoms and asked him to reinstate the ice prescription, but Dr. Quigley
5 refused. (*Id.* at 7.)

6 Mr. Scott then brought the present suit and, along with it, the present
7 motion for preliminary injunction, asking the Court to force Quigley to reinstate
8 his ice prescription.

9 Interested Party Nevada Department of Corrections (NDOC) filed an
10 opposition to Mr. Scott's motion (ECF No. 10) and a motion to submit a copy of
11 Mr. Scott's medical records under seal (ECF No. 11). The medical record in
12 question is Mr. Quigley's original July 2022 prescription. (ECF No. 12.) NDOC
13 intends to use this record to support its statement of facts in the "Factual &
14 Procedural History" section of its Opposition. (ECF No. 10 at 1.)

15 **II. LEGAL STANDARD**

16 Preliminary injunctions are "extraordinary remed[ies] never awarded as of
17 right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). As the Supreme
18 Court clarified in *Winter*, to obtain a preliminary injunction, a plaintiff "must
19 establish that [he] is likely to succeed on the merits, that [he] is likely to suffer
20 irreparable harm in the absence of preliminary relief, that the balance of equities
21 tips in [his] favor, and that an injunction [or restraining order] is in the public
22 interest." *Winter*, 555 U.S. at 20. "[I]f a plaintiff can only show that there are
23 'serious questions going to the merits'—a lesser showing than likelihood of
24 success on the merits—then a preliminary injunction may still issue if the
25 'balance of hardships tips sharply in the plaintiff's favor, and the other two *Winter*
26 factors are satisfied.'" *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1291
27 (9th Cir. 2013) (quoting *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
28 1135 (9th Cir. 2011)).

1 Because Mr. Scott seeks mandatory injunctive relief that goes beyond
2 simply maintaining the status quo during litigation, he bears a “doubly
3 demanding” burden: “[he] must establish that the law and facts clearly favor [his]
4 position, not simply that [he] is likely to succeed.” *Garcia v. Google, Inc.*, 786 F.3d
5 733, 740 (9th Cir. 2015) (en banc). The Ninth Circuit has cautioned that
6 mandatory injunctions are “particularly disfavored” and “should not issue in
7 doubtful cases.” *Id.* (internal quotations omitted). The Prison Litigation Reform
8 Act (“PLRA”) similarly instructs that any restraining order or preliminary
9 injunction granted with respect to prison conditions “must be narrowly drawn,
10 extend no further than necessary to correct the harm the court finds requires
11 preliminary relief, and be the least intrusive means necessary to correct that
12 harm.” 18 U.S.C. § 3626(a)(2).

13 **III. ANALYSIS**

14 Mr. Scott fails to show that he is “likely to suffer irreparable harm in the
15 absence of preliminary relief.” *Winter*, 555 U.S. at 20. Dr. Quigley has prescribed
16 ice in the summer months, and Scott has not shown that he is likely to suffer
17 excess fluid build-up or harmful effects as a result of his lack of ice during the
18 winter months. This is particularly true when Mr. Scott has other methods
19 available to reduce his fluid intake. The Court therefore denies Mr. Scott’s motion
20 for preliminary injunction.

21 Further, the Court concludes that there is a compelling reason to grant
22 NDOC’s motion to seal. The document in question contains information related
23 to Mr. Scott’s medical care. Mr. Scott has an interest in protecting that
24 information, and his interest is stronger than any interest the public might have
25 in seeing it. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-
26 97 (9th Cir. 2016).

27 **IV. CONCLUSION**

28 It is therefore ordered that Plaintiff’s Emergency Motion for Preliminary

1 Injunction (ECF No. 4) is denied.

2 It is further ordered that Interested Party NDOC's Motion for Leave to File
3 Document (ECF No. 11) is granted.

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5 Dated this 7th day of March 2023.

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9 ANNE R. TRAUM
10 UNITED STATES DISTRICT JUDGE
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